

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT LOUGH,

Plaintiff,

v.

CHRISTINE GREGOIRE, *et al.*,

Defendants.

CASE NO. C10-5141RJB

ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT  
OF COUNSEL

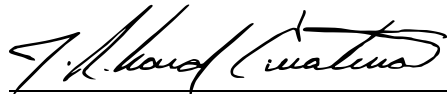
This 42 U.S.C. §1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§636(b)(1)(A) and(B) and Local Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4. The matter is before the court on plaintiff's motion for appointment of counsel (DKT # 9).

There is no right to have counsel appointed in cases brought under 42 U.S.C. §1983. Although the court can request counsel to represent a party, 28 U.S.C. §1915(e)(1), the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both

1 the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro*  
2 *se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

3 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Plaintiff  
4 alleges in the response that a recent injury makes writing difficult, however, the pleadings to date  
5 have been legible. Plaintiff argues this action involves cruel punishment, excessive restraints,  
6 and unsanitary conditions at the SCC. Plaintiff argues that the definition of what constitutes  
7 abuse or mistreatment at the SCC is a case of first impression and he is therefore entitled to  
8 counsel (Dkt. # 9, page 2). The standard used to evaluate a discretionary act by treatment  
9 providers has been established by the Supreme Court. Youngberg v. Romeo, 457 U.S. 307  
10 (1982). In light of this clearly articulated standard, which does not support plaintiff's position,  
11 plaintiff has not shown a likelihood of success on the merits. The motion for appointment of  
12 counsel is **DENIED**.  
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15 DATED this 3rd day of August, 2010.

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18 J. Richard Creatura  
19 United States Magistrate Judge  
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